1997 ASSEMBLY BILL 307

April 24, 1997 – Introduced by Representatives Johnsrud, Gronemus, Freese, Albers, Zukowski, Brandemuehl, Owens, Huebsch, Olsen, Goetsch, Seratti, Musser, Powers, Harsdorf and Lorge, cosponsored by Senators Schultz, Rude and Drzewiecki. Referred to Committee on Natural Resources.

AN ACT *to amend* 90.03 and 90.035 of the statutes; **relating to:** fences as boundaries for certain land occupied or owned by the department of natural resources.

Analysis by the Legislative Reference Bureau

Under current law, occupants or owners of adjoining land used for agricultural or grazing purposes must maintain fences between the land on an equal basis, unless they decide to use markers. They also must keep the fences repaired unless they mutually agree not to do so. Under current law, these requirements do not apply if one of the occupants or owners is the state or one of its subdivisions (state entity). In that case, the state entity and the other occupants or owners must agree that the fence is necessary before they and the state are required to comply with these fencing requirements.

Under this bill, if any of the land involved is being used for grazing and if one of the occupants or owners is the department of natural resources (DNR), the fencing requirements apply as if DNR were not a state entity.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

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Section 1. 90.03 of the statutes is amended to read:

90.03 Partition fences; when required. The respective occupants of adjoining lands used and occupied for farming or grazing purposes, and the respective owners of adjoining lands when the lands of one of such owners is used and occupied for farming or grazing purposes, shall keep and maintain partition fences between their own and the adjoining premises in equal shares so long as either party continues to so occupy the lands, except that the occupants of the lands may agree to the use of markers instead of fences, and such fences shall be kept in good repair throughout the year unless the occupants of the lands on both sides otherwise mutually agree. In this section "occupant" and "owner" include the department of natural resources if any of the adjoining land is used for grazing purposes.

Section 2. 90.035 of the statutes is amended to read:

90.035 Public fences. Where the 2 parties, one of whom is the state or a subdivision thereof, agree that a fence is reasonably necessary, the duty to erect and maintain partition fences shall apply equally to the state, as provided in s. 90.03, and its subdivisions as occupants of lands whenever such lands are bounded by privately owned agricultural or grazing lands. This section does not apply if one of the parties is the department of natural resources and if any of the land involved is used for grazing purposes.

SECTION 3. Effective date.

(1) This act takes effect on the first day of the 7th month beginning after publication.

(END)